

IN THE COURT OF CRIMINAL APPEALS
 OF TEXAS

RUBEN LEE ALLEN

vs.

THE STATE OF TEXAS

§
§
§
§
§

FILED
 COURT OF CRIMINAL APPEALS
 2/26/2019
 DEANA WILLIAMSON, CLERK

CAUSE NO. PD-1042-18

**APPELLANT'S MOTION FOR EXTENSION OF TIME TO FILE
 APPELLANT'S BRIEF ON STATE'S GRANTED PDR**

TO THE HONORABLE JUDGES OF THE COURT OF CRIMINAL APPEALS:

NOW COMES, RUBEN LEE ALLEN, Appellant, pursuant to TEX. R. APP. P. 10.5(b) and 38.6(d), and moves for an extension of time file his brief regarding the State's Cross-Petition for Discretionary Review:

1. On December 16, 2015, the Appellant was charged with the felony offense of aggravated robbery alleged to have occurred on or about September 11, 2015. (1 C.R. at 22). On September 15, 2016, a jury found the Appellant guilty of the offense of aggravated robbery and the jury assessed punishment at 25 years' confinement the next day. (1 C.R. at 125-126; 5 R.R. at 35; 7 R.R. at 186).
2. On November 28, 2017, the First Court of Appeals initially affirmed the judgment of the trial court, but held that the summoning witness/mileage fee violated the State's Constitution's Separation of Powers clause and modified the judgment to delete the \$200 court cost.
3. After the State filed a motion for *en banc* reconsideration, a split panel of the First Court of Appeals affirmed the trial court's judgment on August 30, 2018.

4. This Court granted petitions for discretionary review from both the Appellant and the State on December 12, 2018.
5. This Court filed the State's brief regarding its PDR on January 25, 2019.
6. Counsel was notified that Appellant's response to the State's brief on PDR was due to be filed on or before February 25, 2019.
7. Counsel respectfully requests an extension of 21 days, or until March 18, 2019, to file Appellant's response, for the following reasons:
 - a. In addition to this case, undersigned counsel is responsible for preparation and completion of briefs in the following cases:
 - i. Cause No. 14-18-00390-CR, *Christopher Edward Hatfield v. The State of Texas*, Appellant's motion to abate filed on December 7, 2018 is still pending as of today.
 - ii. Cause No. 14-18-00989-CR, *Jesus Francisco Campos, Jr. v. The State of Texas*. Case is currently on abatement for findings of fact and conclusions of law.
 - iii. Cause No. 14-18-00948-CR, *Billy Ray Parker v. The State of Texas*, Appellant's Brief on the Merits due to be filed on or before March 19, 2019. Two extensions of time have been granted in the case.
 - b. In the past 45 days, the undersigned counsel for Appellant has:
 - i. Filed a brief on the merits in Cause No. 01-18-00175-CR, *Celvin Brooks v. The State of Texas*, on January 14, 2019.
 - ii. Filed a petition for discretionary review in Cause No. PD-0089-19, *Nicholas Jackson v. The State of Texas*, on January 18, 2019.
 - iii. Filed a motion for *en banc* reconsideration in Cause No. 14-17-00205-CR, *Belisario Lopez v. The State of Texas*, on January 24, 2019.

- iv. Filed a reply brief in Cause No. 01-18-00519-CR, *Lashun Davis v. The State of Texas*, on February 15, 2019 and an amended reply brief on February 20, 2019.
 - c. Undersigned counsel has also been assisting the Texas DNA Mixture Review Project.
 - d. Undersigned counsel has also missed over a week of work time due to illness and family obligations.
8. This request is being made in order that counsel may present Appellant's arguments in a thorough and proper manner, and not for purposes of delay.
9. This is the first request for extension of time in this case.

WHEREFORE, counsel for Appellant prays that he be granted an extension of time until March 18, 2019, in which to file Appellant's response to the State's brief regarding its PDR in the above-captioned and numbered causes. Appellant also prays for such other relief that this Court may deem appropriate.

Respectfully submitted,

Alexander Bunin
Chief Public Defender
Harris County Texas

/s/ Nicholas Mensch
Nicholas Mensch
 Assistant Public Defender
 Harris County Texas
 State Bar of Texas No. 24070262
 1201 Franklin, 13th floor
 Houston Texas 77002
 (713) 368-0016
 (713) 368-9278 (fax)

Attorney for Appellant

CERTIFICATE OF SERVICE

I certify that a copy of Appellant's Motion for Extension of Time was served on Clint Morgan of the Harris County District Attorney's Office and Stacey Soule of the Office of State Prosecuting Attorney on February 25, 2019 to the email addresses on file with the Texas e-filing system.

/s/ Nicholas Mensch
Nicholas Mensch